

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MELISSA G. KING,

Petitioner,

14-cv-7962 (JGK)

- against -

UNITED STATES OF AMERICA,

MEMORANDUM OPINION AND  
ORDER

Respondent.

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JOHN G. KOELTL, District Judge:

Melissa King has filed a motion pursuant to 28 U.S.C. § 2255 in which she seeks to vacate the judgment of conviction against her on the grounds, among others, that her guilty plea was not knowing and voluntary, that she was provided ineffective assistance of counsel for numerous reasons both in connection with her guilty plea and in connection with her alleged desire to withdraw her plea, and that she was denied the right to file an appeal. The full description of the grounds are contained in the 290-page motion filed on September 30, 2014 and in the reply papers filed on July 1, 2015, including in the 115-page Memorandum in Support of the Reply.

The Government has suggested at page 29 of its response that, if the Court has any questions, it should require Ms. Kings's attorney to submit an affidavit providing further details with respect to Ms. King's claims. The petitioner does not appear to oppose the suggestion. In her Reply Memorandum,

the petitioner requests the Court to consider expanding the record without a hearing, as the Government suggests, if the Court could not otherwise grant the petition, although the petitioner suggests that, in addition to the petitioner's court-appointed attorneys, the Court ask for affidavits from the prosecutors, the case agents, and the civil attorney for the Local 147 Trustees.

It is unnecessary to expand the record at this time beyond the affidavits to be submitted by Ms. King's court-appointed attorneys. It is well established that when an attorney is accused of ineffective assistance of counsel, the attorney should have a right to respond. See, e.g., Sparman v. Edwards, 154 F.3d 51, 52 (2d Cir. 1998) (per curiam); Davis v. United States, No. 13 CIV. 5400 RMB, 2015 WL 4111311, at \*3 (S.D.N.Y. June 26, 2015); Marcus v. United States, No. 14-CV-5780 ARR, 2015 WL 3869689, at \*8 (E.D.N.Y. June 22, 2015).

Michael Schachter, Michael Handwerker, and Alice Fontier are directed to provide affidavits setting forth any factual information in response to the petitioner's allegations. The affidavits should be submitted by September 30, 2016. Ms. King may submit any response by October 21, 2016.

**SO ORDERED.**

**Dated: New York, New York  
September 6, 2016**

\_\_\_\_\_/s/\_\_\_\_\_  
**John G. Koeltl  
United States District Judge**